

PATENT**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In the Application of

**RECEIVED
CENTRAL FAX CENTER**

Applicants: James D. Logan et al.

Examiner JUL 19 2004
Jungwon Chang

Serial No. 09/536,969

Art Unit 2154

Filed: March, 28 2000

OFFICIALTitle: Systems and Methods for Modifying
Broadcast ProgrammingCommissioner of Patents and Trademarks
Washington, DC 20231

Dear Sir:

FAX TRANSMISSION COVER LETTER

The attached RESPONSE (10 pages) is being transmitted with this cover sheet via facsimile to the central facsimile number of United States Patent and Trademark Office, (703) 872-9306, on July 19, 2004.

Dated: July 19, 2004

Respectfully submitted,



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Dear Sir:

RESPONSE TO FINAL REJECTION**Status of this application**

Claims 1-20 are pending. In the outstanding Office Action mailed on May 18, 2004, claims 1-10 and 13-20 were finally rejected under 35 U.S.C. 103(a) as being unpatentable over Schulhof et al. (US 5,572,442), hereinafter Schulhof, in view of Ostrover et al. (US 6,026,446), hereinafter Ostrover. Claims 11 and 12 were indicated to be allowable if rewritten in independent form.

This response is being filed within 2 months of the mailing of the final rejection, requests reconsideration of the obviousness rejection of claims 1-10 and 13-20 and requests an advisory action.

The Rejection under 35 U.S.C. §103(a)

The outstanding final rejection repeated the grounds for rejection that had been advanced in the preceding Action, relying in a few instances on newly cited passages, and pointed out the reasons why the applicants' contentions expressed in the last response to that preceding rejection were found to be unpersuasive.

Applicants respectfully request reconsideration of the final rejection for the reasons presented below:

In the discussion that follows, the Examiner's comments in the paragraphs of the final rejection are reproduced below in *italics*, for convenient reference, and will be followed, where appropriate, by applicants' remarks.

6. *As to claims 1 and 13, Schulhof discloses the invention substantially as claimed, including a method for selectively reproducing locally stored programming signals (col. 5, lines 52-67) comprising, in combination, the steps of*

storing a first set of separate programming segments at a client location (50, fig. 1; col. 4, lines 57-63; col. 7, lines 6-20; col. 12, lines 54-63);

As noted by the Examiner, and as previously conceded, Schulhof's portable storage medium 50 stores programming segments at a client location. As also stated in the last response, there is no suggestion anywhere in Schulhof that catalogs or directories from which identification data are derived (as discussed below) are stored at the client location.

The Examiner misinterpreted applicants remarks in the last action to indicate that applicant was relying on unclaimed subject matter; that is, the storage of directory data or catalog data at the client location. That was not the intent of those remarks. Applicant was merely indicating that Schulman did not teach the storage of catalog or directory data at the client location but instead used catalogs presented in menus as broadcasted from which to select programs to be requested and downloaded. The point here is that the "programming segments" that Schulhof stores are program segments, and nothing in Schulhof suggests that identification data is derived from these program segments as discussed below.

employing processing means to derive identification data from each of said first set of separate programming segments (col. 4, lines 63-64; col. 5, lines 5-8);

As noted in the last response, the cited passage at col. 4, lines 63-64 discloses "(3) a mobile control interface for displaying the identity of recorded material for playback

selection." Although Schulhof does not state the source of the displayed "identity of recorded material," applicants concede that such information might be derived from the programming segments already recorded on the portable storage medium. However, as discussed below, there is no suggestion that such derived identification information is ever transmitted to the remote processing location, or used for any purpose other than to select recorded material for playback. The Schulhof system only needs to send requests for information that is not already recorded, and has no reason to derive identification information from the first set of program segments that are already recorded at the client location.

The further cited passage in Schulhof at col. 5, lines 5-8 discloses that "(1) the subscriber attaches the portable device to a cable television converter and selects a dedicated data exchange channel, e.g. Channel 66, that provides a menu display which includes a catalog of available audio program material;" As this passage makes clear, the catalog menu displayed to user is obtained from the data exchange channel and there is no suggestion that this menu is derived from the programming segments stored at the client location as claimed, and no suggestion that selections made from the menu are derived from the program segments already stored at the client location as claimed.

transmitting said identification data from said client location to a remote processing location (col. 5, lines 9-12 and 52-53; col. 6, lines 31-39; col. 9, line 65 – col. 10, line 4).

As stated in the last response, the cited passages describe the manner in which the listener makes a selection from a broadcast menu, and then sends the selection to the remote processing location. However, as discussed above, this selection is not "identification data" that is derived from the programming segments stored at the client location as claimed.

In the last Action, on page 8, the Examiner asserts that "Schulman clearly discloses transmitting the identification data from the client location to the remote location" but does not explain how that identification data can be said to be derived from stored programming signals as claimed. The Examiner newly cites col. 10, lines 52-65 and col. 7, lines 63-66, but neither citation suggests that identification information is derived from programming segments stored at the client location as claimed.

In the last Action, on page 8, with respect to "Points (4) and (5)," the Examiner asserts that "Schulhof clearly discloses at client location, employing processing means to derive identification data (i.e. particular program, identity of recorded material; col. 4, line 64; col. 10, lines 52-55) from each of said first set of separate programming segments (i.e. user selects identification data already stored at client location; col. 4, lines 63-64)."

But col. 4, line 64, merely says the identity of recorded information is displayed for playback selection and not for transmission to the remote location as claimed; col. 10, lines 52-55 describes how the remote location keeps track of prior selections and says nothing about identification data of any kind; and col. 4, lines 63-64 as noted above deals with selecting stored items for playback and not with sending identification data to a remote location.

at said remote processing location comparing said identification data with a database containing identification information and associated content descriptions for each of a second set of programming segments (col. 10, line 35 – col. 11, line 15);

The cited passage at col. 10, line 35 to col. 11, line 15 describes the manner in which the Schulhof system processes incoming program selections. As noted above, however, the program selections which the Schulhof system processes are program selections derived from the broadcast catalog, and not from the program segments recorded at the client location. In paragraph 7, discussed below, the Examiner concedes that "*Schulhof does not specifically disclose common program segments found in both said first and said second set of programming segments*" but contends that this difference would have been obvious in view of Ostrover.

transmitting from said remote processing location to said client location selected ones of content descriptions stored in said database which describe said program segments (col. 6, lines 40-61; col. 10, lines 40-41), and

The cited passages in col. 6 and col. 10 both describe the manner in which "actual program material" is transmitted to the subscriber to fulfill the received program selection

request. There is no suggestion in these cited passages that content descriptions stored in a database are sent, or that anything other than "actual program material" is sent.

It is further noted that the Examiner omitted the word "common" in the quoted phrase which reads:

"transmitting from said remote processing location to said client location selected ones of content descriptions stored in said database which describe said common program segments," (emphasis added)

In paragraph 7 of the Action, discussed next, the Examiner conceded that Schulhof does not disclose "common program segments" and nothing in the cited passages discloses or suggests transmitting content descriptions of common segments as claimed.

For the reasons presented above, applicants again submit that Schulhof does not disclose the subject matter set forth in claim 1, even if the limitations regarding "common program segments" are ignored, as they were in the Examiner's explanation quoted above. Accordingly, even if the Schulhof system were modified using the teachings of Ostrover as the Examiner has proposed, the resulting system would still differ from the invention set forth in claim 1. These comments also apply to claim 7 which was rejected for the same reasons as claim 1.

7. *Schulhof does not specifically disclose common program segments found in both said first and said second set of programming segments. However, Ostrover discloses common program segments found in both said first and said second set of programming segments (col. 14, lines 35-54; col. 20, lines 44-47). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Schulhof and Ostrover because common program segments in Ostrover's would improve the mirroring contents of Schulhof's system by allowing users to redundantly record the common programs, thereby allowing seamless play to take place (Ostrover, col. 20, lines 44-47).*

Ostrover, in the passages cited, discloses that two different versions of a program may be processed and stored as a combination of segments unique to each version and

segments common to both versions. But, even if Schulhof's system were modified to store and supply programming content organized in that fashion, neither Schulhof nor Ostrover disclose or suggest comparing identification data derived from program segments stored at the client location with identification data in a database to identify common program segments stored at both the client location and the database, and neither reference suggests transmitting content descriptions which describe the common program segments thus identified from the remote site to the client site. Thus, even if the proposed modification were made, the result would not yield the invention as set forth in claim 1.

Paragraphs 6 and 7 of the outstanding action discussed above reject independent claim 13, but do not discuss the specific limitations found in claim 13 that differ from the quoted limitations in claim 1. Reconsideration of the rejection of claim 13 is requested for the reasons expressed above for claim 1, and for the further reason that neither Schulhof nor Ostrover suggest or disclose "processing said broadcast signal at said client location to extract brief segments from the content of said broadcast signal," neither suggests or discloses "utilizing a communications channel to transmit said brief segments from said client location to a remote processing location," neither discloses or suggests "comparing said segments received from said client location with a library of previously recorded programs to identify particular programs which contain segments matching the segments received from said client location," and neither discloses or suggests "transmitting program guide data describing said particular programs to said client location from said remote programming location."

For the foregoing reasons, reconsideration of the rejection of independent claims 1 and 13 is requested, and allowance of those claims, as well as all of the remaining claims which are dependent thereon, is requested.

Several of the Examiner's further statements regarding recitations contained in dependent claims deserve comment, however, and those comments appear below following the Examiner's statements:

11. As to claim 5, Schulhof discloses the identification data contained in the database are derived from the broadcasted programming signals (col. 9, line 65 — col. 10, line 14).

Claim 5 states that "the identification data contained in said database are derived from said broadcasted programming signals received at said remote processing location concurrently with the reception and recording of said broadcast programming signals at said client location, and said content descriptions transmitted to said client location from said remote processing location are used at said client location to facilitate the selective time-shifted reproduction of said broadcast programming signals." Neither Schulhof nor Ostrover suggest or disclose a system in which broadcast program signals are stored concurrently at both the client location and the remote processing location. This distinction was discussed in the prior response but has not been addressed in the outstanding final rejection. Reconsideration and an advisory action on claim 5 is requested.

12. *As to claim 6, Schulhof discloses specifying the beginning and end time of each of said program segments (i.e., broadcast schedule; col. 6, lines 19-23).*

The cited passage states that Schulhof's "library may provide daily delivery of a morning newspaper in audio format that allows a subscriber to listen to the news in a way that the news is not interrupted by commercial breaks and is not truncated to fit into a tight broadcast schedule." This passage does disclose or suggest that "content descriptions transmitted from said remote processing location to said client location include information specifying the beginning and ending time of each of said common program segments" as set forth in claim 6. These comments also apply to claim 15 which was rejected for the same reasons as claim 6. This distinction was discussed in the prior response but has not been addressed in the outstanding final rejection. Reconsideration and an advisory action on claims 6 and 15 is requested.

14. *As to claim 9, Schulhof discloses uploading a copy of a program segment stored locally at said client location to said remote processing location (i.e., two-way communications; col. 5, lines 9-12 and 52-53; col. 6, lines 31-39; col. 9, line 65 – col. 10, line 4).*

The cited passages describe the manner in which the client sends program selection requests to the remote location, but nowhere suggests *uploading locally stored program segments*. This distinction was discussed in the prior response but has not been addressed in the outstanding final rejection. Reconsideration and an advisory action on claim 9 is requested.

15. *As to claim 10, Schulhof discloses posting an entry upon the transmittal of the identification data to the remote processing location, subsequently transmitting a playback request identifying the client location and identifying a requested program segment (col. 10, lines 52-65).*

The cited passages describe the manner in which requests from multiple subscribers for a single program segment in the library are grouped for more efficient transmission. The cited passage does not describe the novel arrangement for transmitting a given program segment to a client if and only if the client first demonstrates that a copy was previously stored at the client location by transmitting identification data for that segment. This distinction was discussed in the prior response but has not been addressed in the outstanding final rejection. Reconsideration and an advisory action on claim 10 is requested.

16. *As to claims 14 and 18-20, Schulhof discloses displaying the program guide data for use at the client station to facilitate the selection and reproduction of desired ones of the particular programs (col. 5, lines 5-8).*

The cited passage of Schulhof describes the manner in which the subscriber views a catalog of available programs transmitted via a data exchange channel. This guide describes the programming available that is available in the remote library, not programming segments that contain common segments which match the program segments already stored locally at the client location. This distinction was discussed in the prior response but has not been addressed in the outstanding final rejection. Reconsideration and an advisory action on claims 14 and 18-20 is requested.

Conclusion

Reconsideration of the final rejection of claims 1-10 and 13-20 and allowance of all claims is requested.

Respectfully submitted,



Charles G. Call, Reg. 20,406

Dated: July 19, 2004

Certificate of Transmission under 37 CFR 1.8

I hereby certify that this Response is being transmitted by facsimile to the central facsimile number of the U.S. Patent and Trademark Office (703) 872-9306, on July 19, 2004.

Dated: July 19, 2004

Signature



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